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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,040	10/16/2003	Kevin P. Connors	ALTU-530	8964
28584	7590	01/18/2006	EXAMINER	
STALLMAN & POLLOCK LLP			FARAH, AHMED M	
353 SACRAMENTO STREET				
SUITE 2200			ART UNIT	PAPER NUMBER
SAN FRANCISCO, CA 94111			3735	

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/687,040	CONNORS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Ahmed M. Farah	3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 11-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 16,17,19,20,23-40,49,50,53-55 and 60 is/are allowed.
- 6) Claim(s) 11-15,18,21,41-48,51,52 and 56-58 is/are rejected.
- 7) Claim(s) 59 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

**Note:** in this Office Action (OA), the word "window" is defined as an opening especially in the wall of a building/structure for admission of light and/or air. Window is also defined as an open section, slot, bore or other aperture in a wall/structure.

Note: claim 33 has a minor typographical error. In line 11, the term "system can varied," needs to be corrected. Correction, such as --system can be varied-- is suggested.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-15, 18, 21, 22, 41-48, 51, 52, and 56-58 are again rejected under 35 U.S.C. 102(e) as being anticipated by Whitcroft et al. U.S. Patent No. 6,264,649.

Whitcroft discloses a laser treatment device and method of use, the treatment device comprising:

a body 2 having an open bore, and a first planer surface 4 adapted to be placed against a patient's skin, the first planer surface including a first area for cooling the

patient's skin, and a second area, which defines an aperture 6 (recessed window) adjacent the first area;

a radiation source disposed in the body, the radiation source positioned to emit treatment energy through the aperture 6; and

an open region (viewing window in C-shaped element 26, see Figure 8 and col. 5, lines 14-19) between the bore 5 and the aperture 6 (recessed window) to permit viewing of the patient's skin during treatment, said aperture being aligned with the bore 5 in the body 12. See Figures 8, 8A, and 15; and col. 4, line 13 through col. 6, line 12.

Claim 11, as amended, recites a "window aligned with the aperture in the body," which radiation from the radiation source is transmitted "prior to being transmitted through the aperture."

Hence, since the window in the C-shaped element 26 is disposed between the radiation source and the exit aperture, and the radiation from the radiation source is transmitted through said window prior to being transmitted through the aperture, Whitcroft anticipates the recited limitation.

Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by Muller US Patent No. 5,830,208.

Muller discloses an apparatus for treating dermatological conditions, the apparatus comprising:

a body having a first planer surface (cooling device 20), which is adapted to be placed against a patient's skin 14, the first planer surface including a first area for cooling the patient's skin 14, and a second area (aperture 30) adjacent the first area;

a radiation source 40 attached on the body, the radiation source positioned to emit treatment energy through the aperture 30; and

an open region (bore 64) between the aperture and the radiation source, said opening region being aligned with the aperture 30, such that the radiation from the radiation source is transmitted through said opening prior to being transmitted through the aperture 30 (see Figures 1-4).

In this OA, the opening 64, which is an open bore, is treated as being equivalent to the window recited in claim 11 as broadly as claimed.

***Allowable Subject Matter***

Claims 16, 17, 19, 20, 23-40, 49, 50, 53-55 and 60 are allowed.

Claim 59 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon-Thur. 9:30 AM-7:30 PM, and 9:30 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ali Imam can be reached on (571) 272-4737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ahmed M Farah  
Primary Examiner  
Art Unit 3735



January 9, 2006.